
HOUSE BILL No. 1175

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-26.

Synopsis: Underground plant protection. Requires all operators of underground utility facilities to join an association that provides mutual receipt of notice of planned excavation or demolition operations to operators.

Effective: July 1, 2003.

Kuzman

January 8, 2003, read first time and referred to Committee on Commerce and Economic Development.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1175

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-26-15 IS AMENDED TO READ AS
2 FOLLOWS[EFFECTIVE JULY 1, 2003]: Sec. 15. (a) An operator that
3 has underground facilities located in Indiana shall ~~record with the~~
4 ~~county recorder of each county in which the facilities are located a list~~
5 ~~containing~~ **register with and provide the following information to**
6 **an association formed under section 17 of this chapter:**

7 (1) The name of each township ~~in the~~ **and** county in which the
8 operator has underground facilities, including those facilities that
9 have been abandoned in place by the operator but not yet
10 physically removed. ~~The list must include~~

11 (2) The name of the operator. ~~and~~

12 (3) The name, title, address, and telephone number of the
13 operator's representative designated to receive the written or
14 telephonic notice of intent required by section 16 of this chapter.

15 (b) An operator shall ~~record~~ **report** any changes in the information
16 contained in the list recorded under subsection (a) with the ~~county~~
17 ~~recorder of the county in which these facilities are located~~ **association**



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1 within thirty (30) calendar days of the change. The document reflecting
 2 the changes shall be cross-referenced to the original list recorded under
 3 subsection (a).

4 **(c) An association formed under section 17 of this chapter shall**
 5 **record with the county recorder of each county in which an**
 6 **operator registered with the association has underground facilities**
 7 **the information provided to the association by the operator under**
 8 **subsection (a).**

9 **(d)** The county recorder shall charge a fee in accordance with
 10 IC 36-2-7-10.

11 ~~(d)~~ **(e)** An association meeting the requirements of section 17 of this
 12 chapter shall be responsible for providing the information required in
 13 subsections (a) and (b) for the association's members and shall be
 14 responsible for paying the fee contained in subsection ~~(c)~~ **for the**
 15 **association's members. (d).**

16 SECTION 2. IC 8-1-26-16 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Except as
 18 provided in section 19 of this chapter, before commencing an
 19 excavation or demolition operation described in section 14 of this
 20 chapter each person responsible for the excavation or demolition ~~must~~
 21 **shall** serve written or telephonic notice **of the person's intent** to
 22 excavate or demolish ~~The notice must be received on an association~~
 23 **formed under section 17 of this chapter** at least two (2) full working
 24 days but not more than twenty (20) calendar days before the
 25 commencement of the work. ~~However,~~ **Upon receiving notice, the**
 26 **association shall immediately notify each operator that:**

27 **(1) has registered with the association under section 15 of this**
 28 **chapter; and**

29 **(2) has underground facilities located in the area of proposed**
 30 **excavation or demolition;**
 31 **of the person's intent to excavate or demolish.**

32 **(b)** A person responsible for excavation or demolition may
 33 commence work before the elapse of two (2) full working days if all
 34 affected operators have notified the person that the location of all the
 35 affected operators' facilities have been marked or that the affected
 36 operators have no facilities in the location of the proposed excavation
 37 or demolition. ~~The notice must be served on each operator, or each~~
 38 ~~operator's association, who has recorded a list required by section 15~~
 39 ~~of this chapter indicating that the operator has underground facilities~~
 40 ~~located in the proposed area of excavation or demolition.~~ A person
 41 responsible for demolition must give an operator a reasonable amount
 42 of time, as mutually determined by **the association**, the operator, the

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person responsible for demolition, and the project owner, to remove or protect the operator's facilities before demolition of the structure is commenced.

~~(b)~~ (c) The written or telephonic notice required by subsection (a) must contain the following information:

(1) The name, address, and telephone number of the person serving the notice, and, if different, the person responsible for the excavation or demolition.

(2) The starting date, anticipated duration, and type of excavation or demolition operation to be conducted.

(3) The location of the proposed excavation or demolition.

(4) Whether or not explosives or blasting are to be used.

(5) The approximate depth of excavation.

~~(c)~~ (d) If the notice required by this section is by telephone, the operator or association shall maintain an adequate record of the notice for three (3) years to document compliance with this chapter. A copy of the record shall be furnished to the person giving notice to excavate or demolish upon written request.

SECTION 3. IC 8-1-26-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) Each operator or association notified by an association under section 16 of this chapter shall, in two (2) full working days of receiving the notice of intent provided in section 16 of this chapter (unless a shorter period is provided by agreement between the person responsible for the excavation or demolition and the operator), supply to the person responsible for the excavation or demolition the following information, using maps when appropriate:

(1) The approximate location and description of all the operator's underground facilities that may be damaged as a result of the excavation or demolition.

(2) The location and description of all facility markers indicating the approximate location of the underground facilities.

(3) Any other information that would assist that person in locating and avoiding damage to the underground facilities, including providing adequate temporary markings indicating the approximate location of the underground facility and locations where permanent facility markers do not exist.

(b) Facility locate markings must consist of paint, flags, or stakes or any combination that mark the approximate location of the underground facilities.

(c) Color coding of facility locate markings indicating the type of underground facility must conform to the following color coding:

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Facility and Type of Product	Specific Group Identifying Color
(1) Electric power distribution and transmission	Safety red
(2) Municipal electric systems	Safety red
(3) Gas distribution and transmission	High visibility safety yellow
(4) Oil distribution and transmission	High visibility safety yellow
(5) Dangerous materials, product lines, steam lines	High visibility safety yellow
(6) Telephone and telegraph systems	Safety alert orange
(7) Cable television	Safety alert orange
(8) Police and fire communications	Safety alert orange
(9) Water systems	Safety precaution blue
(10) Sewer systems	Safety green
(11) Proposed excavation	White
(d) Each operator or association notified by the association under section 16 of this chapter shall, within two (2) full working days of receiving the notice of intent provided in section 16 of this chapter, provide notification to the person responsible for the excavation or demolition if the operator has no facilities in the location of the proposed excavation or demolition.	
(e) This section does not apply to an operator making an emergency report to the operator's underground facility.	
SECTION 4. IC 8-1-26-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. A person responsible for emergency excavation or demolition to ameliorate an imminent danger to life, health, property, or loss of service is not required to comply with the notice requirements of section 16 of this chapter. However, that person shall:	
(1) give, as soon as practicable, oral notice of the emergency excavation or demolition to each operator having underground	



facilities located in the area or to an the association described in section 17 of this chapter that serves an operator where the excavation or demolition is to be performed; and

(2) **through an association formed under section 17 of this chapter**, request emergency assistance from each operator identified in locating and providing immediate protection to the operator's underground facilities.

SECTION 5. IC 8-1-26-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) Except as provided in subsection (b), a person responsible for an excavation or a demolition operation under section 14 of this chapter that results in damage to an underground facility shall:

(1) immediately upon discovery of the damage, notify the operator of the facility **through the association formed under section 17 of this chapter** of the location and nature of the damage; and

(2) allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the facility.

(b) A person responsible for an excavation or a demolition operation under section 14 of this chapter that results in damage to an underground facility permitting the escape of flammable, toxic, or corrosive gas or liquid shall:

(1) immediately upon discovery of the damage, notify the operator **through the association formed under section 17 of this chapter** and **also notify** local police and fire departments having jurisdiction; and

(2) take other action necessary to protect persons and property and to minimize the hazards until arrival of the operator's personnel or police and fire personnel.

SECTION 6. IC 8-1-26-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) **This section does not apply to the association formed under section 17 of this chapter.**

(b) If an operator suffers a pecuniary loss as a result of a violation of this chapter, the operator may bring a civil action against the person who caused the loss for the following:

(1) An amount equal to the operator's actual damage to the facility.

(2) The costs of the action.

(3) A reasonable attorney's fee.

~~(b)~~ (c) At the court's discretion, a court having jurisdiction may award punitive damages up to three (3) times the operator's actual

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1 damage.

2 ~~(c)~~ **(d)** It is a defense to an action brought under this chapter if an
3 operator fails to comply with the duties imposed under this chapter.

4 ~~(d)~~ **(e)** In addition to the remedies described in subsection ~~(a)~~, **(b)**,
5 an operator may bring an action to enjoin a person excavating or
6 demolishing a structure in an area that includes the operator's facilities
7 until that person complies with this chapter.

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